

CHAPTER 3

ANIMALS AND FOWL¹

(Revised July 2005)

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Vienna Town Code

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Article 1. In General

Sec. 3-1 Position of Animal Warden Created (Amend. 10-88)

There is hereby created the position of Town Animal Warden who shall have the power to enforce this Chapter, Chapter 27.4 of Title 3.1 of the Code of Virginia 1950 as amended, and all laws for the protection of domestic animals. The Town Council may also appoint one or more Deputy Animal Wardens to assist the Animal Warden in dog inspection activities and dog law enforcement. Such Animal Wardens and Deputy Animal Wardens shall have a knowledge of the animal control and protection laws of Virginia which they are required to enforce. When in uniform or upon displaying a badge or other credentials of office, Animal Wardens and Deputy Animal Wardens shall have the power to issue a summons to any person found in the act of violating any such law or any ordinance of the Town. The Animal Warden and the Deputy Animal Wardens shall be paid as the Town Council shall prescribe.

Sec. 3-2 Cruelty to Animals; Penalty¹

Any person who (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; or (ii) deprives any animal of necessary sustenance, food, drink or shelter; or (iii) willfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal; or (iv) carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (v) causes any of the above things; or being the owner of such animal, permits such acts to be done by another, shall be guilty of a Class 1 misdemeanor.

Any person who abandons any dog, cat or other domesticated animal in any public place including the right-of-way of any public highway, road or street or on the property of another shall be guilty of a Class 3 misdemeanor. Nothing in this section shall be construed to prohibit the dehorning of cattle.

For the purposes of this section, the word animal shall be construed to include birds and fowl. (1984, c. 492, § 29-213.91; 1987, c. 488) (Amend. 10-88)

¹For State law, see Code of Va., § 3.1-796.122.

Sec. 3-2.1 Fighting Cocks or Other Animals; Attendance at Fighting; Penalty.²

Any person engaging in the fighting of cocks, dogs or other animals, for money, prize or anything of value, or betting or wagering money or anything of value on the result of such fight, shall be guilty of a Class 3 misdemeanor. Attendance at the fighting of cocks, dogs or other animals where an admission fee is charged, directly or indirectly, shall also constitute a Class 3 misdemeanor. (1984, c. 492, 29-213.93; 1985, c. 408; 1987, c. 488) (Amend. 10-88)

²For State law, see Code of Va., § 3.1-796.125

Article 2. Dogs Generally¹

Sec. 3-3 Definitions (Amend. 10-88; Amended 5-05)

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

At Large. Off the premises of the owner and not under the control of the owner or his agent either by leash, cord or chain.

Dangerous Dog. Means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal, or killed a companion animal; however, when a dog attacks or bites another dog, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the other dog as a result of the attack or bite or (ii) both dogs are owned by the same person. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on another dog while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

Dog. Both male and female sexes of the species and unsexed dogs.

Own and Owner. Any person having a right of property in a dog and any person who keeps or harbors a dog or has it in his care or who acts as its custodian or any person who permits a dog to remain on or about any premises occupied by him.

Run at Large. Roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control.

Unlicensed Dogs. Any dog without an attached current license tag issued by the Town.

Vicious Dog. Means a canine or canine crossbreed that has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or an animal control officer as authorized by local ordinance pursuant to subsection J, that it is a dangerous dog, provided that its owner has been given notice of that finding.

¹For State law as to dogs generally, see Code of Va., §§ 3.1-796.66 to 3.1-796.129.

Sec. 3-4 Dog License Required; License Tax on Dogs. (Amend. 2-77; 12-83; 10-88; 3-89; 02-05)

(A) It shall be unlawful for any person to own a dog four (4) months old or older in the Town of Vienna unless such dog is licensed as provided by the provisions of this Chapter.

(B) There is hereby provided and levied an annual license tax upon any dog within the Town, four (4) months or older, of five dollars (\$5.00) for sexually altered dogs and ten dollars (\$10.00) for unaltered dogs. No license tax shall be levied on any assistance dog. For the purposes of this section, "assistance dog" means a dog that has been or is being trained as a Guide Dog, Hearing Dog, or Service Dog. Such terms are further defined as follows:

Guide Dog. A dog that has been or is being specially trained to aid a particular blind or visually impaired person.

Hearing Dog. A dog that has been or is being specially trained to aid a particular deaf or hard of hearing person.

Service Dog. A dog that has been or is being specially trained to aid a particular physically disabled person with a physical disability other than sight or hearing.

(C) On January 1 and not later than January 31 of each year, the owner of any dog four (4) months old or older shall pay a license tax prescribed in the preceding section.

Upon application and payment of such license tax to the Director of Finance of the Town of Vienna, the Director of Finance shall issue a dog license tag, which tag shall bear only the words "Town of Vienna Dog Tag," an assigned number and the current license year.

(D) If a dog shall become four (4) months of age or come into the possession of any person between January 1 and November 1 of any year, the license tax for the current calendar year shall be paid by the owner.

(E) If a dog shall become four (4) months of age or come into the possession of any person between October 31 and December 31 of any year, the license tax for the succeeding calendar year shall be paid by the owner, and this license shall protect the dog from the date of purchase.

(F) The Director of Finance shall keep a list of all tags issued annually, together with a separate account of funds received from such tax. An annual report shall be made to the Town Council on the number of license tags issued and the receipts from such tax. All unissued license tags for the current license year shall be destroyed at the end of such year.

Sec. 3-4.1 Effect of Dog Not Wearing Collar as Evidence (Amend. 10-88)

Any dog not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed; and in any proceedings under this Chapter, the burden of proof of the fact that such dog has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog.

Sec. 3-4.2 What Dog License Shall Consist Of. (Amend. 10-88)

A dog license shall consist of a license receipt and a metal tag. The tag shall be stamped or otherwise permanently marked to show the jurisdiction issuing the license, the sex of dog, the calendar year for which issued and bear a serial number.

Sec. 3-4.3 Duplicate License Tags. (Amend. 10-88)

If a dog license tag shall become lost, destroyed or stolen, the owner or custodian shall at once apply to the Town of Vienna for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner or custodian that the original license tag has been lost, destroyed or stolen, the Town shall issue a duplicate license tag which the owner or custodian shall immediately affix to the collar of the dog. The Town shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag for any dog shall be one dollar (\$1.00).

Sec. 3-4.4 Displaying Receipts, Dogs to Wear Tags. (Amend. 10-88)

Dog license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by any Animal Warden or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog. It shall be unlawful for the owner to permit any licensed dog four (4) months old or older to run or roam at large at any time without a license tag. The owner of the dog may remove the collar and license required by this section (i) when the dog is engaged in lawful hunting, (ii) when the dog is competing in a dog show, (iii) when the dog has a skin condition which would be exacerbated by the wearing of a collar, (iv) when the dog is confined, or (v) when the dog is under the immediate control of its owner.

Sec. 3-5 Evidence Showing Inoculation for Rabies Prerequisite To Obtaining Dog License. (Amend. 10-88)

No License tag shall be issued for any dog unless there is presented to the Town at the time application for license is made, evidence satisfactory to him showing that such dog has been inoculated or vaccinated against rabies by a currently licensed veterinarian.

Sec. 3-6 Owner Allowing Dog to Run Prohibited.² (Amend. 9-78; 10-88; 5-92; 6-04)

(A) It shall be unlawful for the owner or custodian of any dog to allow his dog, whether licensed or unlicensed, to run at large in the Town at any time.

(B) Any person violating this section shall be guilty of a Class 4 misdemeanor and punished by fine not to exceed two hundred fifty dollars (\$250.00).

Sec. 3-7 Impounding (Amend. 2-77)

Any dog running at large in the Town, either with or without a license tag, may be impounded and kept at the County impounding facility. If such dog has upon it the name of the owner, or if the name and address is otherwise known, the owner shall be notified within twenty-four hours (24) after seizure of such dog, or within such time thereafter as the owner can be located using due care and diligence. The owner of any dog so impounded may contact the appropriate County authorities at the impounding facility. The owner's rights to the return of such dog shall be controlled by the applicable County laws, regulations and requirements. (Code 1962, 18-7; 7-67)

Sec. 3-8 Disposition of Unredeemed Impounded Dogs. (Amend. 2-77)

Any dog which has been impounded and has not been redeemed by the owner may be destroyed or otherwise disposed of in accordance with the applicable law and regulations promulgated by the Town authorities. (Code 1962, 18-8; 7-67)

Sec. 3-9 Dangerous and Vicious Dogs.³ (Amend. 12-87; 05-05)

(A) Any animal control officer or police officer with local jurisdiction who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specific time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to

confine the animal until such time as evidence shall be heard and a verdict rendered. The court,

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² For State law see Code of Va., § 3.1-796.93

³ For State Law see Code of Va. § 3.1-796.100

through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of the ordinance. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Virginia Code §§ 3.17 and 6.119.

(B) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor shall the local governing body prohibit the ownership of a particular breed of canine or canine crossbreed. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian, or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found to be a dangerous dog or vicious dog.

(C) The owner of any animal found to be a dangerous dog shall, within 10 days of such finding, obtain a dangerous dog registration certificate from the local animal control officer for a fee of \$50 or an amount as set by local ordinance but not to exceed the costs incurred by the locality to administer this program, in addition to other fees that may be authorized by law. The local animal control officer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subdivision shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

(D) All certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable; (ii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed; (iii) all certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence that the animal has been neutered or spayed; and (iv) all certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000, that covers animal bites. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (ii) the animal has been

permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

(E) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(F) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

(G) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, notify the local animal control authority if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; (iii) is sold, given away, or dies; or (iv) has been moved to a different address.

(H) The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of the ordinance shall be guilty of a Class 1 misdemeanor.

(I) All fees collected pursuant to the ordinance, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by the ordinance, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under Virginia Code §3.1-796.104:1.

(J) The animal control officer may determine, after investigation, whether a dog is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he may order the animal's owner to comply with the provisions of the ordinance. If the animal's owner disagrees with the animal control officer's determination, he may appeal the determination to the general district court for a trial on the merits.

Sec. 3-10 Female Dogs in Season; Allowing Dogs to Urinate, Etc., on Another's Property; Noisy Dogs; Offensive Odors from Dogs.

The following acts are declared unlawful nuisances and are prohibited:

(A) Any owner permitting his/her female dog to leave his/her premises when such dog is in season, except when such female dog is restrained by leash, cord or chain.

(B) Any owner knowingly and willfully permitting his/her dog to urinate or defecate or otherwise discharge body fluids or solids on the privately owned property of other persons or on public property except curbs, streets, alleys and parks.

- (C) Any owner keeping a dog which, by loud and persistent noises, disturbs the peace of the surrounding neighborhood.
- (D) Any owner keeping a dog in such a manner as to cause offensive odors beyond the confines of his/her property.
- (E) Keeping or harboring a destructive dog or noisy dog. (Code 1962, 18-10; 7-67)

Sec. 3-10.1 Removal of Excrement. (NEW 10-26-92)

It shall be unlawful for any owner, keeper or walker of a dog to fail to immediately remove the dog's excrement from any property other than the dog owner's property on which such dog had defecated. Any First violation of this section shall result in a warning of possible future penalty. Any conviction of a second or subsequent violation of this section shall, be punishable as a class 4 misdemeanor.

Sec. 3-11 Destructive or Noisy Dogs.

In addition to other penalties provided in this Article, any person owning or harboring or having in his/her possession or under his/her control a dog suspected of constituting a destructive dog or a noisy dog may be summoned before the District Court to show cause why such dog should not be confined or removed beyond the Town limits; and upon proof that such dog is destructive or noisy, such dog shall, upon order of the District Court, either be confined or removed beyond the Town limits as may be directed by the Court. For the purposes of this Article, a destructive dog is one that has:

- (A) Frequently and habitually injured or destroyed property or performed acts which might reasonably lead to the destruction or injury of property of any person other than the owner or custodian thereof.
- (B) Frequently or habitually turned over garbage cans.

A noisy dog is one that has, by loud, frequent and habitual barking, howling or crying, or other noises, caused annoyance or disturbed the peace or quiet of any person or persons in the neighborhood. (Code 1962, 18-11; 7-67)

Sec. 3-12 Killing Certain Dogs Which Cannot Safely Be Taken and Impounded.

If any vicious or dangerous dog, or any dog suspected of or having rabies, found at large cannot be safely taken and impounded such dog may be slain by any Police Officer or Animal Warden. (Code 1962, 18-12; 7-67; 10-88)

Sec. 3-13 Prima Facie Evidence of Dog Being Unlicensed.⁴

Any dog not wearing a collar bearing a license tag of the proper calendar year shall, prima facie, be deemed to be unlicensed and in any proceedings instituted under this Article, the burden of proof of the fact that such dog has been licensed, or is otherwise not required to bear a license tag at the time, shall be upon the owner of the dog. (Code 1962, 18-13; 7-67)

Sec. 3-14 Enforcement of Article.

The provision of this Article shall be enforced by the Police and Animal Warden of the Town, the Health Officer and Director of Animal Control of the County, or their authorized agents, and any other persons designated by the Town Council or the Board of Supervisors of the County. (Code 1962, 18-14; 7-67; 2-77; 10-88)

⁴For similar State law, see Code of Va., § 3.1-796.89.

Article 3. Rabies Control¹

Sec. 3-15 Definitions

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Animal. Includes, but is not limited to, domestic animals, livestock, birds and fowl.

Own and Owner. Any person having a right of property in a dog, any person who keeps or harbors a dog or has it in his care or who acts as its custodian; and any person who permits the dog to remain at or about any premises occupied by him. (Code 1962, 11-1; 1-67)

Sec. 3-16 Inoculation of Dogs Against Rabies Required.

It shall be unlawful for an owner to keep, harbor or have in his care, custody or control a dog four (4) months old or older unless such dog has been vaccinated or inoculated against rabies by a licensed veterinarian within the time prescribed by law with a rabies vaccine approved by the United States Department of Agriculture. (Code 1962, 11-3; 11-69)

Sec. 3-16.1 Inoculation of Cats Against Rabies Required. (Emer. 12-82; Reg. 1-83; 10-88)

A. It shall be unlawful for an owner to keep, harbor or have in his care, custody, or control, a cat four (4) months old or older unless such cat has been vaccinated or inoculated against rabies by a licensed veterinarian annually or tri-annually, depending upon the initial vaccine utilized as approved by the United State Department of Agriculture.

B. The provisions of 3-20, 3-21, and 3-22 of this Code providing procedures to be followed when rabid animal bites persons or other animals or themselves die, shall likewise be applicable to cats and the owners thereof.

Sec. 3-17 Impoundment of Uninoculated Dogs; Redemption of Impounded Dogs.

It shall be the duty of any of the officials charged with the enforcement of this Article to impound in the County pound any dog which has not been vaccinated or inoculated, as provided in 3-16. The dog shall be held in the pound for a period of not more than five (5) days, unless

¹For State law authorizing Town to adopt measures for control of rabies, see Code of Va., §§ 3.1-796.97:1 and 3.1-796.98.

the dog is rabid or suspected of being rabid, in which case the dog shall be held for further observation or destroyed upon the authorization of a licensed veterinarian or any person charged with the enforcement of this Article.

Any dog so seized and impounded and not rabid or suspected of being rabid may be redeemed by the owner at any time within five (5) days after the impoundment upon:

- (a) payment of a five dollar (\$5.00) fee.
- (b) payment of a boarding fee of twelve dollars (\$12.00) per day. (Amend. 2-77; 10-88)
- (c) purchase of a license tag if unlicensed.
- (d) presentation of a certificate from a licensed veterinarian showing that the dog has been vaccinated or inoculated within the time prescribed by law.

The redemption fees shall be paid to the Director of Finance for the County. License fees shall be paid to the Director of Finance of the Town. The receipt for the fees, together with the veterinarian's certificate of inoculation or vaccination, shall be presented at the pound for the dog's release. (Amend. 2-77)

Any dog not redeemed within five (5) days from the date of its seizure shall be destroyed in a humane manner by the County director of animal control or his designated agent, or shall be sold to any person who will pay for the cost of impounding, licensing and vaccinating or inoculation. The money so derived shall be credited to the dog fund by the Director of Finance of the County. (Code 1962, 11-4; 7-67; 2-77; 10-88)

Sec. 3-18 Certificate of Rabies Vaccination Required for License Tag.

No license tag shall be issued for any dog by the Director of Finance unless there is presented to the Director of Finance at the time application is made for the license, a certificate of rabies vaccination or inoculation signed by a licensed veterinarian and certifying that the dog for which the license is to be issued has been vaccinated or inoculated by the veterinarian within the time prescribed by law prior to the date the tag is issued. The certificate shall show the date of inoculation, the rabies tag number, the sex and breed of the dog and the name of the owner. The Director of Finance shall note on the certificate the date of issuance and the number of the license tag, and return the certificate to the applicant. (Code 1962, 11-5)

Sec. 3-19 Duty of Officials to Impound or Destroy Dog Suspected of Rabies.

It shall be the duty of any of the officials charged with the enforcement of this Article to impound in the County pound, at the owner's expense, any dog showing active signs of rabies or

Sec. 3-20 Procedure When Dog Bites Person

- (a) Impound the dog in the County pound for a period of ten (10) days, at a cost to the owner in an amount charged by the County for such impoundment, unless the animal develops active symptoms of rabies, or expires before that time. (Amend. 5-72; 2-77)
- (b) Place the dog in the custody of a licensed veterinarian or a licensed veterinary hospital for a period of ten (10) days, if requested by the owner and at the owner's expense.
- (c) Chain or confine the dog in a strong enclosure on the owner's premises and isolated from all other animals and persons for a period of ten (10) days.

Sec. 3-21 Procedure When Animal Bites Another Animal.

Sec. 3-22 Procedure When Rabid Animal Has Been Killed or Dies.

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having knowledge that an animal has died of rabies, or is suspected of having died of rabies, shall immediately notify the Town Animal Warden or the Police Department of the location of the body of such animal. The head of the animal killed because it was rabid or suspected of being rabid, or which is suspected of having died of rabies, shall be surrendered to any person charged with the enforcement of this Article. (Code 1962, 11-9; Amend. 2-77; 10-88)

Sec. 3-23 Enforcement of Article

The provisions of this Article shall be enforced by the Police and Animal Warden of the Town, the Health Officer and Director of Animal Control of the County, or their authorized agents, and any other persons designated by the Board of Supervisors of the County. (Code 1962, 11-10; Amend. 2-77)